

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Trevor & Rachel Little,**  
Appellants,

**v.**

**Union County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-88-0025**  
**Parcel No. 24010-490-070-00**

On October 24, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Trevor and Rachel Little were self-represented. County Attorney Timothy Kenyon is legal counsel for the Board of Review. County Assessor Gene Haner represented the Board of Review at the hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Trevor and Rachel Little are the owners of property located at 1203 W Adair Street, Creston, Iowa. The real estate was classified residential on the January 1, 2013 assessment and valued at \$131,950, representing \$10,550 in land value and \$121,400 in improvement value.

The Littles protested the assessment to the Union County Board of Review on the grounds that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). The Littles asserted the property's correct value was \$90,000, which is the amount they purchased it for in September 2012. The Board of Review denied the protest.

The Littles then appealed to PAAB reasserting their claim.

According to the property record card, the subject property is a one-story, brick dwelling built in 1954 and remodeled in 1965. The dwelling has 1579 square feet of living area; a full, finished basement; a 252 square-foot, attached garage; an open porch; and a patio. The property is listed in very good condition with an average quality grade (4+05). The dwelling sits on a 0.17 acre site.

Trevor Little testified at the hearing regarding the purchase of the subject property in September 2012. Prior to exercising their right of first refusal to purchase the property, the Littles lived in and rented the subject property. The Littles submitted an Offer for Real Estate that was signed and accepted by Marie Chapman, the listing agent and daughter of the owner Phyllis Johnson Zarifis. (Exhibit 1). The Offer lists the purchase price as \$90,000 and also states that Zarifis agreed to credit the sales price by \$6150, which is the amount of rent the Littles paid up to the time of sale.

Trevor Little testified the property had been on the market for four years prior to the sale. The property record card shows the subject sold on contract for \$124,500 in June 6, 2010, but the contract was forfeited. After the hearing, Little provided a listing history of the property. The property was first listed on August 7, 2007, for \$128,000 and relisted on March 4, 2011, for \$114,500. Little points out that the March 4th listing states, "REALLY NEEDING TO SELL ASAP...WILL LOOK AT ALL OFFERS!!!" and he believes this statement highlights the seller's urgency.

The Littles also submitted an appraisal completed by John Cosby of Neal Appraisal Service, Inc., West Des Moines, with an effective date of August 22, 2012. (Exhibit 2). Cosby completed the sales comparison approach and the cost approach to value the subject property, but Cosby gives the greatest weight to the sales comparison approach in concluding a final value opinion. He considered three sales of one-story homes in Creston, which occurred between December 2011 and August 2012 and an active listing. Cosby states the sales used in his appraisal were the best available at the time of inspection. The properties range in size from 999 square feet to 1702 square feet, and are roughly of similar age and condition. Cosby states that he reviewed market data to adjust the properties and

adjustments were based on the principle of matched pairs analysis. After adjustment, the three sales and listing range from \$93,020 to \$99,500. Cosby concludes a final market value opinion of \$93,500.

Union County Assessor Gene Haner testified on behalf of the Board of Review. Haner first stated that a reduction in the subject property's land value below its current assessed value would cause inequity with other land assessments nearby. Secondly, Haner believes the cost approach is the best approach to assess property. Haner noted that the *Iowa Real Property Appraisal Manual* indicates the subject property should be depreciated by thirty-one percent. Using Cosby's estimate of the property's cost-new of \$183,106, this would result in a value of approximately \$129,990. Conversely, Haner states that Cosby's appraisal depreciated the subject by fifty-three percent and Cosby's value indicated by the cost approach is \$103,670. Cosby noted that he developed the cost approach because it is required by the lender and it adds support to the analysis. Ultimately, Cosby considered the sales comparison approach the most reliable and gave it the most weight in rendering his final conclusion of value. We note the sales comparison approach is the preferred method to assess property under Iowa law. §441.21(1)(b).

When asked about the sales comparables used in Cosby's appraisal, Haner stated that he questioned some of Cosby's adjustments. For example, he believes the \$7500 condition adjustment to 1009 Crest Drive is too large, but the \$1764 size adjustment is too small. Haner stated he would have likely made different adjustments using the *Iowa Real Property Appraisal Manual*, but acknowledged that appraisers use a different method when making adjustments. Based on our review of Cosby's appraisal, it appears the \$1764 adjustment referred to by Haner is actually an adjustment for basement size and not gross living area. Ultimately, we find Cosby's adjustments to be reasonable.

The record also contains a letter from Haner dated June 14, 2013. Haner's letter references an email from Karen Cooper of the Iowa Department of Revenue. Cooper's email discusses the Department's Declaration of Value form and, in particular, how to enter data related to a property sales

condition. The Declaration of Value for the subject's September 2012 sale to the Littles indicates a sales condition code of "29" – Sale Between Tenant and Landlord. Based on this condition code, the sale is not considered a 'good' sale for equalization study purposes. Haner's letter states the sale is "to be considered an abnormal sale and not considered a good arms length transaction."

After consideration of the evidence and testimony, we find Cosby's appraisal demonstrates the subject property's assessment is excessive and provides the best evidence of the property's fair market value as of January 1, 2013.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property, or a "fair and reasonable exchange . . .


between a willing buyer and a willing seller.” *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property’s sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject’s market value. *Id.* at 290. The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).


In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

The evidence in this appeal includes a sale of the subject property in September 2012 for \$90,000 and Cosby’s appraisal valuing the property at \$93,500. Haner asserted the sale itself is abnormal because it was a sale between a tenant and landlord. Given the potential abnormality of the sale, the MLS listing history, and the language in *Riley*, we find the best evidence of the subject property’s fair market value as of January 1, 2013, is Cosby’s appraisal. For the foregoing reasons, we determine the Littles have met their burden of demonstrating the subject property is over-assessed.

THE APPEAL BOARD ORDERS the January 1, 2013 assessment of the Board of Review is modified to a total value of \$93,500, allocated \$10,550 in land value and \$82,950 in improvement value. The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Union County Auditor and all tax records, assessment books, and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 24th day of December, 2013.

  
Jacqueline Rypma, Presiding Officer

  
Karen Oberman, Board Member

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